

REMARKS


The Office Action dated May 25, 2004 has been carefully considered together with the prior art cited therein. In reply, claims 1 and 15 have been amended to more clearly distinguish applicant's invention from the prior art and, for the reasons set forth hereinafter, it is respectfully submitted that claims 1 and 15 are allowable together with claims 2-14 which are dependent from claim 1 and claims 16-29 which are dependent from claim 15. Accordingly, reconsideration and allowance are respectfully requested.

Claims 1-29 stand rejected under 35 U.S.C. § 102(b) as being anticipated by patent 6,126,766 to Hunter, Jr. It is respectfully submitted that Hunter, Jr. does not disclose applicant's apparatus or method and that independent claims 1 and 15 as herein amended more clearly distinguish applicant's invention from the disclosure of Hunter, Jr. In this respect, claims 1 and 15 have been amended to set forth that the layer of foamed plastic material deposited by applicant's apparatus or in accordance with applicant's method slopes uniformly relative to the underlying surface. In contrast, the apparatus and method of Hunter, Jr. does not provide a sloping surface but, rather, a terraced surface as shown by the sections A-E in Figure 6. Even if the examiner considers sections A-E of Hunter, Jr. to "slope" the surface is terraced and does not slope uniformly. Further with regard to the disclosure of Hunter, Jr., the latter controls the thickness of a given one of the passes A-E by changing the speed for each pass. Hunter, Jr. does not vary the speed of his machine as the machine moves along each of the paths A-E. Rather, the speed for each layer A-E is constant, and this is evidenced by the constant thickness of each layer, i.e., from point A to point B, from point B to point C, etc.

It is respectfully submitted, for the foregoing reasons, that claims 1 and 15 as herein amended clearly distinguish applicant's invention from the disclosure of Hunter, Jr. and are allowable. Claims 2-14 are dependent from claim 1 and, accordingly, are allowable for the same reasons. Moreover, claims 3-14 require means for progressively changing the speed of the motor during movement of the apparatus along the underlying surface, whereby these claims further distinguish from Hunter, Jr. Claims 16-29 are dependent from claim 15 and, accordingly, distinguish from Hunter, Jr. for the same reasons set forth with regard to claim 15. Accordingly, reconsideration and allowance of claims 1-29 is respectfully solicited.

Respectfully submitted,

FAY, SHARPE, FAGAN, MINNICH & McKEE, LLP


E. KENT DANIELS, JR. (Reg. No. 19,598)
1100 Superior Avenue, Seventh Floor
Cleveland, Ohio 44114-2579
Telephone: (216) 861-5582
Facsimile: (216) 241-1666